

**ASSEMBLY BILL**

**No. 1705**

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**Introduced by Assembly Member Niello**

February 23, 2007

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An act to amend Section 530.5 of the Penal Code, relating to identity theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 1705, as introduced, Niello. Identity theft.

Existing law makes it unlawful to willfully obtain personal identifying information, as defined for specified purposes.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 530.5 of the Penal Code is amended to  
2     read:  
3     530.5. (a) Every person who willfully obtains personal  
4     identifying information, as defined in subdivision (b) of Section  
5     530.55, of another person, and uses that information for ~~any~~ *an*  
6     unlawful purpose, including to obtain, or attempt to obtain, credit,  
7     goods, services, real property, or medical information without the  
8     consent of that person, is guilty of a public offense, and, upon  
9     conviction therefor, shall be punished by a fine, by imprisonment  
10    in a county jail not to exceed one year, or by both a fine and  
11    imprisonment, or by imprisonment in the state prison.

1 (b) In any case in which a person willfully obtains personal  
2 identifying information of another person, uses that information  
3 to commit a crime in addition to a violation of subdivision (a), and  
4 is convicted of that crime, the court records shall reflect that the  
5 person whose identity was falsely used to commit the crime did  
6 not commit the crime.

7 (c) (1) Every person who, with the intent to defraud, acquires,  
8 or retains possession of the personal identifying information, as  
9 defined in subdivision (b) of Section 530.55, of another person is  
10 guilty of a public offense, and upon conviction therefor, shall be  
11 punished by a fine, by imprisonment in a county jail not to exceed  
12 one year, or both a fine and imprisonment.

13 (2) Every person who, with the intent to defraud, acquires or  
14 retains possession of the personal identifying information, as  
15 defined in subdivision (b) of Section 530.55, of another person,  
16 and who has previously been convicted of a violation of this section  
17 upon conviction therefor shall be punished by a fine, by  
18 imprisonment in a county jail not to exceed one year, or by both  
19 a fine and imprisonment, or by imprisonment in the state prison.

20 (3) Every person who, with the intent to defraud, acquires or  
21 retains possession of the personal identifying information, as  
22 defined in subdivision (b) of Section 530.55, of 10 or more other  
23 persons is guilty of a public offense, and upon conviction therefor,  
24 shall be punished by a fine, by imprisonment in a county jail not  
25 to exceed one year, or by both a fine and imprisonment, or by  
26 imprisonment in the state prison.

27 (d) (1) Every person who, with the intent to defraud, sells,  
28 transfers, or conveys the personal identifying information, as  
29 defined in subdivision (b) of Section 530.55, of another person is  
30 guilty of a public offense, and upon conviction therefor, shall be  
31 punished by a fine, by imprisonment in a county jail not to exceed  
32 one year, or by both a fine and imprisonment, or by imprisonment  
33 in the state prison.

34 (2) Every person who, with actual knowledge that the personal  
35 identifying information, as defined in subdivision (b) of Section  
36 530.55, of a specific person will be used to commit a violation of  
37 subdivision (a), sells, transfers, or conveys that same personal  
38 identifying information is guilty of a public offense, and upon  
39 conviction therefor, shall be punished by a fine, by imprisonment  
40 in the state prison, or by both fine and imprisonment.

1 (e) Every person who commits mail theft, as defined in Section  
2 1705 of Title 18 of the United States Code, is guilty of a public  
3 offense, and upon conviction therefor shall be punished by a fine,  
4 by imprisonment in a county jail not to exceed one year, or by both  
5 a fine and imprisonment. Prosecution under this subdivision shall  
6 not limit or preclude prosecution under any other provision of law,  
7 including, but not limited to subdivisions (a) to (c), inclusive, of  
8 this section.

9 (f) An interactive computer service or access software provider,  
10 as defined in subsection (f) of Section 230 of Title 47 of the United  
11 States Code, shall not be liable under this section unless the service  
12 or provider acquires, transfers, sells, conveys, or retains possession  
13 of personal information with the intent to defraud.

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